

ESTTA Tracking number: **ESTTA525991**

Filing date: **03/11/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following parties oppose registration of the indicated application.

Opposers Information

Name	American Movie Classics Company LLC
Granted to Date of previous extension	03/10/2013
Address	11 Penn Plaza New York, NY 10001 UNITED STATES

Name	YEAH IPTV LLC		
Entity	Limited Liability Company	Citizenship	Delaware
Address	11 Penn Plaza New York, NY 10001 UNITED STATES		

Attorney information	Maren C. Perry King & Spalding LLP 1185 Avenue of the Americas New York, NY 10036 UNITED STATES nytrademarks@kslaw.com, mperry@kslaw.com, kmccarthy@kslaw.com, mswyers@thetrademarkcompany.com Phone:(212) 556-2128
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Applicant Information

Application No	85589533	Publication date	09/11/2012
Opposition Filing Date	03/11/2013	Opposition Period Ends	03/10/2013
Applicant	Figueroa, Eric J. 18220 NE 25 Place Aventura, FL 33160 UNITED STATES		


Goods/Services Affected by Opposition

Class 038. First Use: 2010/08/22 First Use In Commerce: 2010/08/22
All goods and services in the class are opposed, namely: Audio broadcasting; Video broadcasting

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Other	Section 18 restriction; Void ab initio

Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	85349079	Application Date	06/17/2011
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	YEAH		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 038. First use: Internet protocol television (IPTV) transmission services; Provision of video-on-demand transmission services featuring motion picture films and television programming</p> <p>Class 041. First use: Production and distribution of motion pictures and television programming; Provision of entertainment information relating to motion picture films and television programming and the gaming, horror and monster genres; Providing an Internet website portal in the field of entertainment, television programs, motion pictures and information relating to entertainment in the gaming, horror and monster genres; Providing an interactive website featuring information and links relating to entertainment, television programs, motion pictures and information relating to entertainment in the gaming, horror and monster genres; Providing an interactive website where users can post comments and reviews of videos and games for entertainment purposes</p>		

Related Proceedings	91207371
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Attachments	85349079#TMSN.jpeg (1 page)(bytes) YEAHBABYnoticeofopposition.pdf (9 pages)(629581 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/mcp/
Name	Maren C. Perry
Date	03/11/2013

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

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AMC NETWORK ENTERTAINMENT, LLC	:	
(formerly AMERICAN MOVIE CLASSICS	:	
COMPANY LLC)	:	
and	:	
YEAH IPTV LLC,	:	
Opposers,	:	Opposition No.
v.	:	_____
ERIC J. FIGUEROA,	:	
Applicant.	:	
-----	X	

NOTICE OF OPPOSITION

AMERICAN MOVIE CLASSICS COMPANY LLC, a New York limited liability company whose business address is 11 Penn Plaza, New York, New York 10001 (now known by change of name as AMC NETWORK ENTERTAINMENT, LLC) (“AMC”) secured extensions of time to oppose the subject application, and AMC’s affiliate and privy with respect to rights in the mark at issue, YEAH IPTV LLC, a Delaware limited liability company at the same address, (“YEAH IPTV”), both believe that they will be damaged by registration of the mark YEAH BABY (“Figueroa’s Mark”) for “audio broadcasting; video broadcasting” in International Class 38, Serial No. 85/589,533 (the “Figueroa Application”), filed on April 4, 2012, by Eric J. Figueroa (“Figueroa”) and published for opposition in the Official Gazette of September 11, 2012 and, by and through their undersigned attorneys, hereby oppose the same.

The grounds for this Opposition are as follows:

1. YEAH IPTV and AMC are affiliated companies, both operating in the broadcasting and entertainment fields, sharing a common corporate parent, AMC NETWORKS, INC.

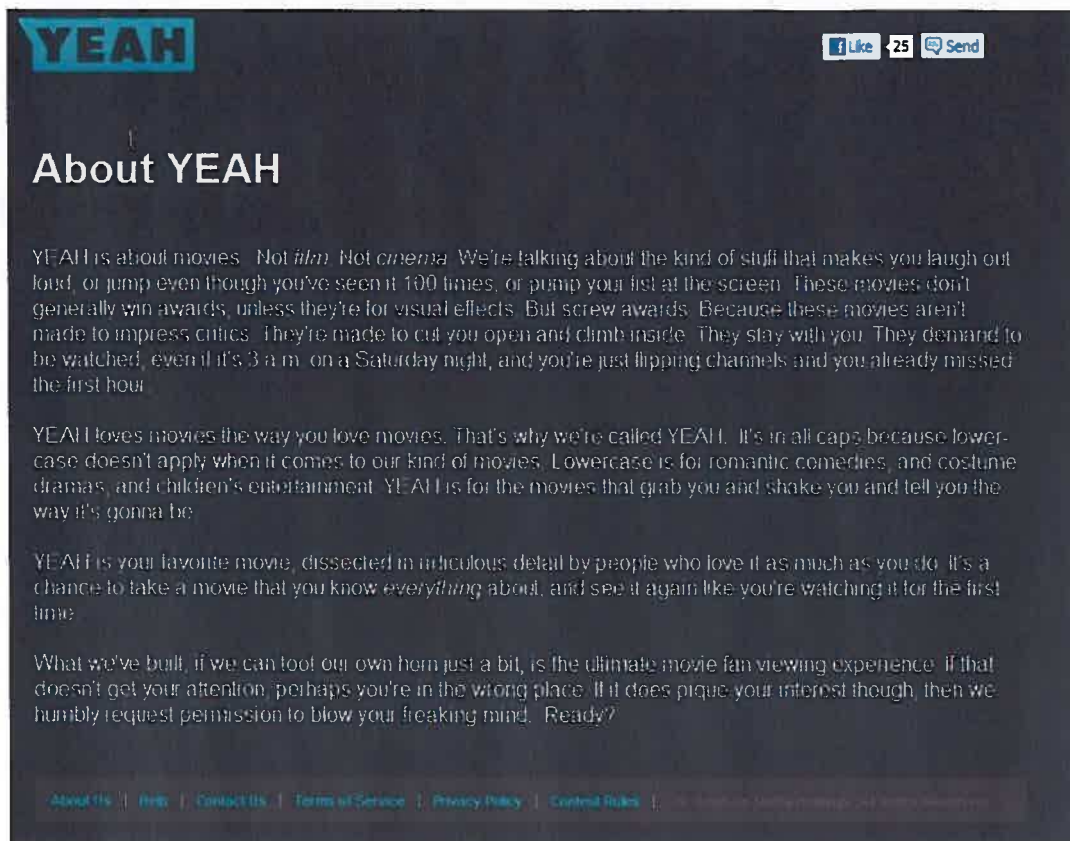
2. On June 17, 2011, AMC filed an intent-to-use application seeking to register the mark YEAH for “internet protocol television (IPTV) transmission services; provision of video-on-demand transmission services featuring motion picture films and television programming” in International Class 38 and “production and distribution of motion pictures and television programming; provision of entertainment information relating to motion picture films and television programming and the gaming, horror and monster genres; providing an Internet website portal in the field of entertainment, television programs, motion pictures and information relating to entertainment in the gaming, horror and monster genres; providing an interactive website featuring information and links relating to entertainment, television programs, motion pictures and information relating to entertainment in the gaming, horror and monster genres; providing an interactive website where users can post comments and reviews of videos and games for entertainment purposes” in International Class 41. This application was assigned Serial No. 85/349,079 (“AMC’s YEAH Application”).

3. On February 15, 2012, AMC’s parent company, AMC NETWORKS, INC., formed YEAH IPTV as a Delaware limited liability company for purposes of managing the business associated with the YEAH mark and with the intention of formally recording an assignment of rights in the YEAH mark including ownership of the AMC YEAH Application from AMC to YEAH IPTV once a statement of use was filed for the YEAH mark, in accordance with USPTO procedures.

4. The PTO Examiner did not cite any of Figueroa's marks during the prosecution of AMC's YEAH Application. A response to an office action issued on other grounds was issued on March 29, 2012.

5. Starting at least as early as April 1, 2012, YEAH IPTV commenced using the mark YEAH in connection with an IPTV broadcasting service offering streaming of movies via an application on Facebook. The YEAH mark was used as indicated in the screen shots below:





6. YEAH IPTV is continuing to build and invest substantially in its YEAH IPTV business, by, e.g., building its website at YeahTV.com and securing appropriate broadcasting rights to the content it seeks to broadcast. The YeahTV.com website is now active and offers streaming of movies via the website and other entertainment content related to those movies.

7. On information and belief, Figueroa became aware of AMC's application for YEAH shortly after the filing thereof, and thereafter Figueroa filed the Figueroa Application and a letter of protest to the AMC YEAH Application. The Letter of Protest was granted but the Examiner still did not cite any of Figueroa's marks against the AMC YEAH Application.

8. On October 9, 2012, Figueroa filed a Notice of Opposition against Opposer's YEAH mark ("Figueroa's Opposition"). Figueroa's Opposition was assigned Opposition No. 91207371. Figueroa based his opposition on his alleged rights in YEAH and YEAH BABY, for various

advertising and marketing services in Class 35, by virtue of certain registrations and alleged use since 2010. Figueroa also asserted rights based on the subject application for YEAH BABY for broadcasting services in Class 38 and again asserted use, for these broadcasting services, since 2010. Figueroa's Opposition alleges priority and likely confusion between his marks and Opposer's YEAH mark.





9. In the subject Figueroa Application, as in each of his other PTO filings, Figueroa submitted a copy of a business card as a specimen of use for his alleged "audio broadcasting; video broadcasting" services. The business card submitted for the Figueroa Application looks essentially the same as the specimen submitted for Figueroa's other registrations and is shown below:

Yeah Baby™

*Eric Figueroa
Miami, Florida
yeahbabytv@live.com 305-300-4583
Advertising, Marketing,
Audio/Video Broadcasting*

10. Figueroa operates a website at <http://www.yeahbabytv.com> which includes what appear to be auto-generated pay-per-click links and embedded content from third party sites, followed by a reference to YEAH and YEAH BABY with additional auto-generated pay-per-click links, as shown below:

hulu™ Recently Added Full

			
Saturday Night Live: Martin Short Full Episode (47:29)	Saturday Night Live: Jamie Foxx Full Episode (44:30)	Saturday Night Live: Jeremy Renner Full Episode (57:43)	Saturday Night Live: Anne Hathaway Full Episode (46:51)

◀ 1 of 2 ▶

[With Te'o Story, Online Hoax Questions Mount](#)

NewsFactor | 2013-01-19 10:45:10 PT

[Facebook Privacy Worries Rise Even Before Search Launch](#)

NewsFactor | 2013-01-18 17:45:14 PT

[Patent Filed for Laser-Projected Keypad with Google Glasses](#)

NewsFactor | 2013-01-18 15:30:08 PT

[Jelly Bean Update Gives 2 Samsung Tablets New Features](#)

NewsFactor | 2013-01-18 13:00:12 PT

[Apple's Sharp Stock Drop Shakes Fund World](#)

NewsFactor | 2013-01-18 11:45:14 PT

[Phony Java Patch Pushes Malware](#)

NewsFactor | 2013-01-18 11:45:14 PT

[MediaFire Ups Ante with 50 GB Free Storage for Android](#)

NewsFactor | 2013-01-18 11:45:13 PT

[Voice Calls Via Wi-Fi Sweeten Facebook Messenger App](#)

NewsFactor | 2013-01-17 16:00:12 PT

[Microsoft HelpBridge App Aids Disaster Victims](#)

NewsFactor | 2013-01-17 14:45:08 PT

[Training, More Apps, Making Deals -- RIM Picks Up the Pace](#)

NewsFactor | 2013-01-17 14:45:08 PT

Yeah Baby® - Yeah®

Advertising - Marketing - Audio/Video Broadcasting Services

People - Products - Services

for info., questions & requests

yeahbabytv@live.com

huluPLUS instantly watch TV shows & movies

[Shop the NBC Universal Store](#)

[There's Power in the Web! \\$5.99 .Coms at GoDaddy.com](#)

11. Figueroa's website does not on its face demonstrate the offering of audio broadcasting services or video broadcasting services, although it does state "Advertising -- Marketing -- Video & Broadcasting Services." Upon information and belief, the U.S. Patent and Trademark Office would not consider any of the activity on Figueroa's website to be the offering of either audio broadcasting or video broadcasting services by Figueroa.

12. Upon information and belief, Figueroa is not using the YEAH BABY mark in connection with broadcasting services.

13. Upon information and belief, Figueroa did not use the YEAH BABY mark in connection with broadcasting services prior to the filing date of the AMC YEAH Application or prior to YEAH IPTV's first use of the YEAH mark.

14. Upon information and belief, Figueroa did not use the YEAH BABY mark in connection with broadcasting services prior to the filing date of the Figueroa Application, thus rendering the application *void ab initio*.

15. Upon information and belief, as between the parties, AMC and/or YEAH IPTV have priority with respect to broadcasting services and the other services identified in AMC's YEAH Application.

16. Upon information and belief, to the extent that Figueroa is found to have any use of his marks in commerce sufficient to support his trademark filings and his claims of priority, and the USPTO considers the parties' marks to be likely to cause confusion based on the broad descriptions of services in the Figueroa Application, said application should be restricted in whole or in part under Section 18 to eliminate and/or to clarify and restrict those broadly described services that are causing the likely confusion, to identify such services in a more specific manner.

17. Allowing registration to Figueroa will improperly give the appearance of exclusive statutory ownership rights in YEAH BABY to Figueroa in violation and derogation of the prior and superior rights of AMC and/or YEAH IPTV in the YEAH mark for broadcasting services and other services identified in AMC's YEAH Application.

18. AMC and YEAH IPTV believe they are likely to be damaged by the registration of the YEAH BABY mark since Figueroa is asserting the Figueroa Application against AMC in Figueroa's Opposition.

WHEREFORE, AMC and YEAH IPTV request that the opposition to Application Serial No. 85/589,533 for registration of YEAH BABY be sustained and that the registration sought by Figueroa be refused.

Dated: March 11, 2013

KING & SPALDING LLP

By: /Kathleen E. McCarthy/
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(212) 556-2222 (fax)

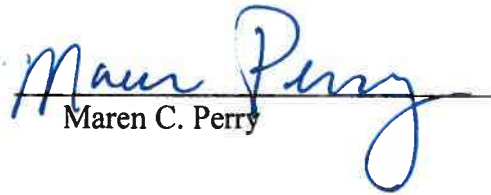
Attorneys for Opposer

CERTIFICATE OF SERVICE

This is to certify that I have this day served the foregoing Notice of Opposition upon Figueroa, by causing a true and correct copy thereof to be deposited in the United States mail, postage prepaid, addressed to Figueroa's counsel of record as follows:

Matthew H. Swyers
The Trademark Company, PLLC
344 Maple Avenue West, Suite 151
Vienna, VA 22180

This 11th day of March, 2013.


Maren C. Perry